

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/681,846	FRANKEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vivek Srivastava	2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/9/05.
2. ☒ The allowed claim(s) is/are 1-31 and 37 - 40 (re-numbered as 1-35).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date <u>1-2003</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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## DETAILED ACTION

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Greg Williams on 10/21/05.

The application has been amended as follows:

- In claim 31, line 7, delete – and, –
- In claim 31, line 10, delete - . – after the word 'station' and replace with "1"
- In claim 31, after line 10, insert "**wherein step of re-transmitting is a non-real time rate transmission rate and is responsive to a viewer ratings characteristic associated with said programming content; wherein storing programming content includes a step of determining whether to retain particular older stored programming content based at least in part upon viewer rating characteristics of newer stored programming content; and wherein step of re-transmitting is done at a rate less than a**

**real time transmission rate during times when said station is  
broadcasting a live digital video signal in high definition television  
format.”**

- Claim 32 will be cancelled.
- Claim 33 will be cancelled.
- Claim 34 will be cancelled.
- Claim 35 will be cancelled.
- Claim 36 will be cancelled.
- In claim 37, line delete – 36 – and replace with “**31**”
- Claim 41 will be cancelled.

***Allowable Subject Matter***

Claims 1 – 31 and claims 37 – 40 are allowed.

The following is an examiner’s statement of reasons for allowance: the prior art fails to teach a method and system of providing rerun programming to consumers comprising: providing consumers with a list of live programming, monitoring which programs are watched, ranking the programs watched, recording a portion of programs on the list of live television programs, delivering rerun of programs to the plurality of consumers in a manner of program delivery which other than real time delivery of programming which is capable of being viewed by a television in real time.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Knudson et al (US 2005/0204388) – Series reminders and recordings

Roser (US 6,446,261) – Targeted insertion of indicia

Rowe et al (US 5,812,123) – System for displaying programming information

Fujita et al (US 6,681,394) – Broadcast transmitting apparatus

Zeider et al (US 6,901,603) – Advanced recording options

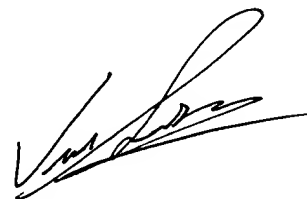
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs  
10/29/05



VIVEK SRIVASTAVA  
PRIMARY EXAMINER